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SENATE

{ REPORT
No. 837

AUTHORITY TO CERTAIN INDIANS AND INDIAN TRIBES TO SUBMIT CLAIMS TO THE COURT OF CLAIMS

JANUARY 2 (calendar day, JANUARY 3), 1925.—Ordered to be printed

Mr. HARRELD, from the Committee on Indian Affairs, submitted the following

REPORT

[To accompany H. R. 2694]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 2694) authorizing certain Indian tribes, or any of them, residing in the State of Washington, to submit to the Court of Claims certain claims growing out of treaties or otherwise, having considered the same, report favorably thereon with the recommendation that the bill do pass with the following amendments:

Page 2, line 8, strike out the word "jurisdiction" where first used and substitute in lieu thereof the word "adjudication."

Page 3, line 1, after the word "contract" at the end of the line, insert the words "or contracts."

The facts are fully set forth in House Report No. 456, Sixty-eighth Congress, first session, which is appended hereto and made a part of this report.

There is also attached a letter from the Secretary of the Interior, under date of December 13, 1924.

[House Report No. 456, Sixty-eighth Congress, first session]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 2694) authorizing the Indian tribes and individual Indians, or any of them, residing in the State of Washington and west of the summit of the Cascade Mountains to submit to the Court of Claims certain claims growing out of treaties or otherwise, having considered the same report thereon with a recommendation that it do pass with the following amendments:

Page 1, line 10, after the word "them," strike out all down to and including the word "treaties" in line 12.

Page 2, line 11, after the word "therein," strike out all down to and including the word "made" in line 14.

Page 2, line 16, after the word "counterclaims," insert the words "including gratuities."

Page 2, line 17, after the word "tribes," insert the word "or" and strike out the words "or individual Indians."

Page 2, line 21, after the word "said," strike out the word "Indians."

Page 3, line 1, after the word "such," strike out the words "Indians, tribe."

Page 3, line 4, after the word "Indians," insert the words "under contract approved in accordance with existing law."

Page 3, line 6, change the colon to a period and strike out all down to and including the word "and" in line 10.

Page 3, line 13, after the word "recovery," insert the following: "and in no event shall such fee amount in the aggregate under one attorneyship for each tribe to more than \$25,000, together with all necessary and proper expenses incurred in preparation and prosecution of the suit."

Amend the title to read:

"A bill authorizing certain Indian tribes, or any of them, residing in the State of Washington, to submit to the Court of Claims certain claims growing out of treaties or otherwise."

The bill simply authorizes all of the tribes named, or any of them, to prosecute their legal and equitable claims in the Court of Claims. Similar bills affecting these Indians have received favorable reports from committees of Congress in former Congresses but have not been enacted into law. In fact, in one or two cases bills were passed by one body but were not reached in the other.

Territorial Governor Stevens, acting on behalf of the Government, negotiated treaties with many of these tribes of Indians in the year 1855 and in subsequent years. There is some question as to whether the terms of the treaties have been fully complied with. The evidence submitted to the committee by the Indian Bureau and by the proponents of the bill is not conclusive one way or the other. We feel that some of these tribes, at least, may be entitled to further payments under the positive contracts made in the treaties with the Government.

Perhaps the largest amount which they claim is predicated upon the contention that when these treaties were made whereby they relinquished their rights to large tracts of land, Governor Stevens promised these Indians that they would later be provided with at least sufficient land for a home. Some of the treaties specifically provided that the President might, when in his judgment the interests of the Indians would be advanced, make allotments to the Indians in severalty, in accordance with the sixth section of the treaty with the Omahas, which treaty in fact provided for 80-acre allotments. As a matter of fact, the Indians were placed upon a small reservation, and in one case the average for each Indian amounted to only a fraction more than 7 acres. The Government never availed itself of the provision in the treaties for removing the Indians to another reservation, or for making allotments in accordance with the terms of the treaty with the Omahas. In fact, it is claimed that the Indians by the treaties ceded an average of 1,800 acres apiece, and this was at a time when the Oregon donation act was in effect, which made it possible for a single white man to procure a half section of land and a married man and his wife a full section of land in Oregon and Washington Territory.

Where no treaties were made the situation is very much the same, for the Indians were forced to smaller and smaller reservations, and there is considerable question as to whether such Indians ever relinquished their title to their lands.

The committee is convinced that when these Indians were moved following the making of these treaties it was understood that the reservation selected was only a temporary one, and that it was intended that they should later be moved to some place where they could be provided with a reasonable amount of land. We feel that they have been very shabbily treated by the Government and that they should have an opportunity to have their equities properly presented to the Court of Claims.

The changes proposed by the rewritten bill are all self-explanatory. Some of them relate to the employment of attorneys and limiting the fee that may be charged. Another allows the Government to offset gratuity appropriations, if any have been made. The most material changes are probably the ones which result in eliminating Indians from commencing suit on individual claims of any kind. We feel such actions can not be permitted as a practical proposition. In the case of Johnson Blackfeather et al. v. United States (27 Ct. Cls. 233) the court said:

"The United States, as the guardian of the Indians, deal with the nation, tribe, or band and have never, so far as is known to the court, entered into contracts, either express or implied, compacts, or treaties, with individual Indians so as to embrace within the purview of such contract or undertaking the personal rights of individual Indians."

Your committee believes that the foregoing quotation from the Blackfeather case is not only in accordance with the true facts but recognizes a policy which should be adhered to in these jurisdictional claims bills.

DEPARTMENT OF THE INTERIOR,
Washington, January 14, 1924.

HON. HOMER P. SNYDER,
*Chairman Committee on Indian Affairs,
House of Representatives.*

MY DEAR MR. SNYDER: This will refer to your letter of December 21, 1923, requesting a report on H. R. 2694, which would confer jurisdiction on the Court of Claims to adjudicate the claims of certain tribes, bands, and individual Indians residing in the State of Washington west of the summit of the Cascade Mountains.

This bill is in substance the same as H. R. 2423, Sixty-seventh Congress, upon which this department reported April 19, 1922. The report of April 19 is printed in House Report No. 1705, Sixty-seventh Congress, fourth session, a copy of which is inclosed. The facts with regard to the alleged claims are fully set out in this document, from which it will be seen that the committee of the Sixty-seventh Congress did not concur in the adverse views of this department regarding the proposed bill, but was favorable to its enactment with amendments.

This department has nothing further to add to its previous report on these claims. However, no objection will be interposed to the enactment of the bill should your committee conclude that such action would be proper.

Should the committee decide to report the bill for enactment, it is recommended that it be amended as follows:

After the word "therein," in line 11, page 2, strike out down to and including the word "made," in line 14, page 2.

After the word "Indians," line 4, page 3, insert "under contract approved in accordance with existing law."

After the word "necessary," page 3, line 6, change the colon to a period, and strike out down to and including the word "and," in line 10, page 3, so that the next sentence will begin with the word "Upon," in line 10.

After the word "recovery," line 13, page 3, insert "and in no event to exceed the sum of \$25,000."

Very truly yours,

HUBERT WORK, *Secretary.*

DEPARTMENT OF THE INTERIOR,
Washington, December 13, 1924.

HON. J. W. HARRELD,
Chairman Committee on Indian Affairs, United States Senate.

MY DEAR SENATOR HARRELD: I have your letter of December 8, 1924, inclosing for report thereon a copy of H. R. 2694, as passed by the House of Representatives June 2, 1924, re claims of certain Indians of the State of Washington.

It is recommended that the bill be enacted. It conforms practically to the report of this department thereon made to the chairman of the House Committee on Indian Affairs January 14, 1924, except the provision in lines 8 and 9, page 3, relative to attorney fees. It was recommended in our report to the House committee that attorney fees be limited so as not to exceed \$25,000. The bill as passed by the House provides that such fees shall not exceed \$25,000 "under one attorneyship for each tribe * * *". This is the same provision, however, as contained in the act of June 4, 1924 (Public, No. 187, 68th Cong.), conferring jurisdiction on the Court of Claims to adjudicate alleged claims of the Wichita and affiliated bands of Indians, Oklahoma, and no objection is made to it.

As there will probably be more than one attorney's contract should the bill be enacted, the words "or contracts" should be added after the word "contract" at the end of line 1, page 3, thereof.

Attention is also called to the word "jurisdiction," as first used in line 8, page 2. Apparently this is a misprint and the word "adjudication" was intended and should be substituted.

There is inclosed a copy of House Report No. 456, wherein is printed the department's letter of January 14, 1924, above mentioned. From the report of the House committee you will note that these alleged claims have been before the Congress for a number of years, and that on one or more occasions bills have been passed by one branch of Congress but never reached the other.

Very truly yours,

HUBERT WORK.

